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SENATE

REPORT
100-313

WATER RESOURCES DEVELOPMENT ACT OF 1988

APRIL 11, 1988.—Ordered to be printed

Mr. BURDICK, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2100]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 2100) to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

OUTLINE OF THE BILL

Title I authorizes for construction 16 Army Corps of Engineers water resources development projects. In addition, cost limitations and an automatic deauthorization procedure are implemented for projects authorized pursuant and subsequent to this Act.

Title II contains general and technical correction provisions pertaining to the existing authorities and management of the civil works program of the Army Corps of Engineers.

Title III contains program and study authorizations related to the civil works program of the Army Corps of Engineers.

GENERAL STATEMENT

With the signing into law of the Water Resources Development Act of 1986 (Public Law 99-662) a 17-year stalemate in water resources development legislation was broken. In addition to authorizing numerous water resources development projects and programs, that Act resolved longstanding disputes over cost sharing, user fees, and environmental concerns relating to the programs

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and projects of the civil works program of the Army Corps of Engineers.

Prior to 1970, Army Corps of Engineers Civil Works authorizing legislation was passed by Congress every 2 or 3 years. This relatively regular schedule of authorizing legislation offered distinct advantages: it provided a regular vehicle for oversight and corrections to the Corps program; it provided the Corps of Engineers with current and economically viable projects; and it minimized the backlog of mature but unauthorized projects in Congress.

In reporting S. 2100 as amended to the Senate, the Committee on Environment and Public Works returns to a more regular schedule of Corps of Engineers authorizing legislation for the reasons described above.

However, while it is important to return to regular and timely authorizations for the Corps of Engineers, this goal can only be obtained if the critical policy reforms established by Public Law 99–662 remain intact. These reforms not only ensure a viable Corps of Engineers program, but also eliminate much of the controversy over the Corps of Engineers policy and programs.

Further, it is vitally important that regular authorizing bills for the Corps not become vehicles for water resources projects which have not been thoroughly studied and approved by the Corps of Engineers. Such a situation would undoubtedly result in a return to the controversy that, prior to the enactment of Public Law 99-662, surrounded the Corps of Engineers program in Congress and in the eyes of the public.

S. 2100, the Water Resources Development Act of 1988, embodies this philosophy: it makes no substantive changes to the cost sharing, user fee, or environmental reforms which were put into place with the passage of Public Law 99–662, nor does it authorize any project which has not received thorough review and approval by the Chief of the Army Corps of Engineers.

PROTECTION AND REFORM PROVISIONS

In addition to authorizing 16 new Corps of Engineers water resources projects, S. 2100 contains several provisions which are designed to increase the accountability and efficiency of the Corps of Engineers civil works program.

First, as with projects authorized pursuant to Public Law 99–662, the amount of money spent on each project authorized in this bill, as well as those authorized in the future, may not exceed more than 20 percent of the cost estimated in the bill without further action by Congress.

S. 2100 also provides for the automatic deauthorization of each project which it authorizes and any project authorized in the future, if that project has had no funds obligated for its planning, design, or construction within 5 years of its authorization.

In addition, S. 2100 directs the Secretary of the Army to promote cost savings and increased efficiency, reliability, and safety, and improved environmental results through the aggressive use of innovative water resources technologies in all phases of Corps of Engineers projects and programs.

Further, the Comptroller General is directed to undertake a review of management and administration of the Civil Works program of the Corps of Engineers. Such a review will prove to be a valuable tool in future oversight and consideration of the Corps civil works program.

Although this legislation authorizes 16 new Corps of Engineers water resources projects, the annual obligation ceilings placed on the Corps of Engineers civil works construction budget in section 901 of Public Law 99-662 help ensure that there will be no corresponding increase in Corps construction spending.

SECTION-BY-SECTION ANALYSIS

TITLE, I: PROJECT AUTHORIZATIONS

Title I authorizes for construction 16 new Army Corps of Engineers water resources development projects. In addition, spending ceilings are placed on these projects and provision is made for their automatic deauthorization in the event funding for further planning, design, or construction is not provided within five years of the enactment of their authorization into law.

Section 101

This section authorizes for construction sixteen Corps of Engineers water resources development projects. Each project has completed Corps of Engineers planning and review, and all have a final favorable Chief of Engineers' report. Descriptions of these projects follows.

Lower Mission Creek, Santa Barbara, California

Location.—Santa Barbara, California, adjacent to the Lower Mission Creek.

Purpose.—Flood control.

Problem.—Recurring flood problems in the metropolitan area.

Recommended Plan.—Channel improvements and bridge replacements along approximately 1.2 miles of Lower Mission Creek including mitigation measures and aesthetic treatments.

Environmental Impact Statement.—Final statement filed with the Environmental Protection Agency in July 1987.

Project Costs.—Total $10,420,000. First Federal $5,909,000; first non-Federal $4,511,000.

Benefit/Cost Ratio.—1.1 to 1 at a discount rate of 8⅝ percent.

Fort Pierce Harbor, Florida

Location.—Eastern coast of Florida within St. Lucie County at the city of Ft. Pierce.

Purpose.—Commercial navigation.

Problem.—Lack of sufficient channel dimensions, especially depths, preclude economical transportation of commodities.

Recommended Plan.—Deepen and widen existing channels and turning basin and provide additional access channel, with disposal of suitable material on the beach.

Environmental Impact Statement.—Final statement filed with the Environmental Protection Agency in September 1986.

Project Costs.—Total $6,742,000: first Federal $4,319,000; first non-Federal $2,423,000.

Benefit/Cost Ratio.—1.8 to 1 at a discount rate of 8⅝ percent.

Nassau County (Amelia Island), Florida

Location.—Northeast Florida, on the northern third of the ocean side of Amelia Island in Nassau County.

Purpose.—Beach erosion control.

Problem.—Beach erosion along the shore of Amelia Island caused by natural erosion and by jetties constructed for a Federal navigation project at Fernandina Harbor.

Recommended Plan.—Approximately 3.6 miles of initial beach fill with periodic nourishment along 4.3 miles of ocean shore. Advanced nourishment will occur with the initial construction, with renourishment over the life of the project.

Environmental Impact Statement.—Final statement filed with the Environmental Protection Agency in June 1985.

Project Costs.—Total $5,753,000: first Federal $4,619,000; first non-Federal $1,143,000.

Benefit/Cost Ratio.—1.5 to 1 at a discount rate of 8⅝ percent.

Port Sutton Channel, Florida

Location.—Located within the Port of Tampa on the west coast of Florida, about midway up the peninsula.

Purpose.—Commercial navigation.

Problem.—The existing 34-foot depth in the Port Sutton Channel necessitates lightloading of vessels resulting in transporation inefficiencies and increased costs.

Recommended Plan.—Deepening the Port Sutton Channel to 43 feet over a width of 200 feet and a length of 3,700 feet.

Environmental Impact Statement.—Final statement was filed with the Environmental Protection Agency in July 1987.

Project Costs.—Total $2,670,000: first Federal $1,155,000; first non-Federal $1,515,000.

Benefit/Cost Ratio.—3.7 to 1 at a discount rate of 8⅝ percent.

Chicagoland underflow plan, Illinois

Location.—Chicago, Illinois metropolitan area.

Purpose.—Flood Control.

Problem.—Rising water levels in the area's watercourses during storm events cause sewer outfalls to become submerged or partially submerged, thereby causing backup. This results in basement and street flooding in the metropolitan area.

Recommended Plan.—Two reservoirs in existing quarries at McCook and Thornton, Illinois, providing floodwater storage for the Mainstream, Des Plaines, and Calumet Systems; and associated facilities.

Environmental Impact Statement.—An environmental assessment and finding of no significant impact is included in the project report.

Project Costs.—Total $419,000,000: first Federal $314,250,000; first non-Federal $104,750,000.

Benefit/Cost Ratio.—For existing conditions, 1.7 to 1 and 1.4 to 1 for the McCook and Thornton Reservoirs, respectively, at a discount rate of 8⅝ percent.

Lower Ohio River navigation, Illinois and Kentucky

Location.—Lower Ohio River in the vicinity of Olmsted, Illinois.
Purpose.—Inland Navigation.
Problem.—Water traffic demands and limited capacities of existing locks are projected to result in increasing delays in navigation. Further, the existing locks and dams 52 and 53 have deteriorated and no longer meet design standards.
Recommended Plan.—A new locks and dam structure about 1.8 miles downstrean of the existing locks and dam 53, near the community of Olmsted, Illinois, to replace existing locks and dams 52 and 53. The new structure would consist of twin locks, 110′ by 1200′, and a dam with a navigable pass.
Environmental Impact Statement.—Final statement filed with the Environmental Protection Agency in April 1986.
Project Costs.—Total $775,000,000: first Federal $775,000,000; of this amount, 50 percent of the total project cost is to come from the Inland Waterways Trust Fund into which are placed the receipts from the tax on barge fuel.
Benefit/Cost Ratio.—2.2 to 1 at a discount rate of 8⅝ percent.

Hazard, Kentucky

Location.—A 14-mile reach of the North Fork Kentucky River in Perry County, Kentucky.
Purpose.—Flood Control.
Problem.—Recurring flood damages, primarily to residential and commercial properties and public facilities, in the Hazard, Kentucky vicinity.
Recommended Plan.—Approximately six miles of channel enlargement consisting of clearing and snagging and channel widening.
Environmental Impact Statement.—An environmental assessment and finding of no significant impact is included in the project report.
Project Costs.—Total $7,450,000: first Federal $5,590,000; first non-Federal $1,860,000.
Benefit/Cost Ratio.—1.6 to 1 at a discount rate of 8⅝ percent.

Mississippi and Louisiana estuarine areas, Mississippi and Louisiana

Location.—Southeastern Louisiana and southern Mississippi.
Purpose.—Enhancement of fish and wildlife resources.
Problem.—Due to the deprivation of the annual fresh water and sediment from the Mississippi River, the natural processes of subsidence compaction, erosion and saltwater intrusion, and man-induced activities have resulted in the loss of up to four square miles a year of coastal marshes in the study area. Saltwater intrusion is a key factor in habitat loss, erosion, and vegetative changes. The

loss and alteration of habitat types have adversely affected the productivity of fish and wildlife.

Recommended Plan.—Water diversion facilities to divert fresh water from the Mississippi River into Lake Pontchartrain and the Mississippi Sound: a multi-cell box culvert control structure, with necessary inflow/outflow channels, realignments of existing levees and associated features.

Environmental Impact Statement.—Final statement was filed with the Environmental Protection Agency in April 1985.

Project Costs.—Total, $59,300,000. First Federal $59,300,000; first non-Federal 0.

Benefit/Cost Ratio.—1.2 to 1 at a discount rate of 8⅞ percent.

Wolf and Jordan Rivers and Bayou Portage, Mississippi

Location.—Pass Christian, Mississippi, adjacent to the St. Louis Bay.

Purpose.—Commercial navigation.

Problem.—The channel dimensions of Bayou Portage are inadequate for the size vessels using the Pass Christian Industrial Park, requiring lightloading and resulting in delays and safety problems.

Recommended Plan.—Deepen and widen the navigation channel in Bayou Portage to 8 feet by 100 feet and extend the channel to the 8-foot contour in St. Louis Bay, ending in a 200′ by 800′ turning basin.

Environmental Impact Statement.—An environmental assessment and finding of no significant impact is included in the project report.

Project Costs.—Total, $2,229,000. First Federal $1,620,000; first non-Federal $670,000.

Benefit/Cost Ratio.—2.3 to 1 at a discount rate of 8⅝ percent.

Truckee Meadows, Nevada

Location.—The Truckee River and tributaries in the Reno, Sparks and Truckee Meadows urban area, Nevada.

Purpose.—Flood Control.

Problem.—Recurring flooding in the rapidly urbanizing areas, primarily to industrial, commercial, and residential properties.

Recommended Plan.—A combination of levees, floodwalls, channel improvements and an overflow storage area, plus recreation facilities.

Environmental Impact Statement.—Final statement was filed with the Environmental Protection Agency in November 1985.

Project Costs.—Total, $78,400,000. First Federal $39,200,000; first non-Federal $39,200,000.

Benefit/Cost Ratio.—1.8 to 1 at a discount rate of 8⅝ percent.

Scioto River, West Columbus, Ohio

Location.—Franklin County, Ohio, in the western portion of the City of Columbus.

Purpose. —Flood control.

Problem.—Recurring flood damages to residential and commercial buildings in western Columbus.

Recommended Plan.—About 3.3 miles of levee/floodwall, on new pumping station, modifications to existing pumping stations, and related features.

Environmental Impact Statement.—An environmental assessment and finding of no significant impact is included in the project report.

Project Costs.—Total, $31,562,000. First Federal $23,671,000; first non-Federal $7,891,000.

Benefit/Cost Ratio.—3.4 to 1 at a discount rate of 8⅝ percent.

Delaware River Pennsylvania and Delaware

Location.—Schuylkill River in the vicinity of Philadelphia, Pennsylvania, and the Delaware River in the vicinity of Camden, New Jersey (Beckett Street Terminal).

Purpose.—Commercial navigation.

Problem.—Current channel dimensions constrain efficient vessel movement and inadequate depths require the use of costly alternatives such as lightloading.

Recommended Plan.—Deepen the existing project in the lower Schuylkill River to 40′ and provide a turning basin with a depth of 40′. Deepen the existing project in the Delaware River at Camden (Beckett Street Terminal) to 40′.

Environmental Impact Statement.—An environmental assessment and finding of no significant impact is included in the project report.

Project Costs.—Total, $17,200,000. First Federal $9,100,000; first non-Federal $8,100,000.

Benefit/Cost Ratio.—6.3 to 1 for the Schuylkill River portion and 1.6 to 1 for the Delaware River portion, at a discount rate of 8⅝ percent.

Cypress Creek, Texas

Location.—North and northwest of the city of Houston in Harris and Waller Counties, Texas.

Purpose.—Flood control.

Problem.—Recurring floods in the rapidly urbanizing Cypress Creek basin.

Recommended Plan.—Channel enlargement of about 29.4 miles of Cypress Creek, plus recreation facilities.

Environmental Impact Statement.—Final statement was filed with the Environmental Protection Agency in August 1987.

Project Costs.—Total, $114,200,000. First Federal $84,900,000; first non-Federal $29,300,000

Benefit/Cost Ratio.—1.2 to 1 at a discount rate of 8⅝ percent.

Falfurrias, Texas

Location.—Along Palo Blanco and Cibolo Creeks in the vicinity of Falfurrias, Texas.

Purpose.—Flood Control.

Problem.—Recurring flooding in the City of Flafurrias, Texas, due to flooding along Palo Blanco and Cibolo Creeks and watershed overflows adjacent to Los Olmos Creek.

Recommended Plan.—Various structural and non-structural measures, including about 5.6 miles of levee, a 1.8 mile length of pilot channel to divert floodflows, a ring levee to protect a sewage treatment plant, and flowage easements on approximately 11,000 acres of land.

Environmental Impact Statement.—Final statement was filed with the Environmental Protection Agency in January 1985.

Project Costs.—Total $31,800,000. First Federal $15,900,000; first non-Federal $15,900,000.

Benefit/Cost Ratio.—3.0 to 1 at a discount rate of 8⅝ percent

Guadalupe River, Texas

Location.—Navigation channel extending from the Gulf Intracoastal Waterway (GIWW) in San Antonio Bay to the vicinity of Victoria, Texas.

Purpose.—Commercial Navigation.

Problem.—Insufficient channel depths require the inefficient light-loading of ships.

Recommended Plan.—Enlarge the existing channel from the GIWW to Victoria to dimensions of 12′ by 125′.

Environmental Impact Statement.—Final statement was filed with the Environmental Protection Agency in August 1986.

Project-Costs.—Total, $23,900,000. First Federal $15,000,000; first non-Federal $8,800,000.

Benefit/Cost Ratio.—1.2 to 1 at a discount rate of 8⅝ percent.

McGrath Creek, Wichita Falls, Texas

Location.—Wichita Falls, Texas, adjacent to McGrath Creek.

Purpose.—Flood control.

Problem.—Recurring flooding in the McGrath Creek watershed, a highly urbanized area within the City of Wichita Falls.

Recommended Plan.—Construction of a new spillway for the existing Sikes Lake and a 3,600-foot channel in McGrath Creek.

Environmental Impact Statement.—Supplemental statement filed with the Environmental Protection Agency in January 1988.

Project Costs.—Total $9,100,000. First Federal $6,800,000; first non-Federal $2,300,000.

Benefit/Cost Ratio.—1.6 to 1 at a discount rate of 8⅝ percent.

Section 102

Section 902 of Public Law 99-662 required that if the cost of any project authorized in that act increased by more than 20 percent plus future inflation adjustments, the project would have to be reauthorized. This section extends that requirement to the projects authorized for construction in this act, as well as projects authorized by future acts of Congress.

Section 103

Sections 1001(a) and 1001(c) of Public Law 99-662 provided for automatic deauthorization of projects authorized in that act if no funds were obligated toward planning, design, or construction within 5 years of the date of enactment. This section would apply

this deauthorization process to projects authorized in this act and in subsequent acts of Congress, the 5 year period beginning on the date of enactment into law.

TITLE II: GENERAL PROVISIONS

Title II contains provisions making general, specific, or technical changes to Corps of Engineers programs or projects.

Section 201

This section is a technical correction to Public Law 99-662, in which language was inadvertently dropped permitting local sponsors of port improvements to credit the cost of utility relocations toward their 10 percent payment of project costs over 30 years. Section 201 permits such accounting, and is effective as of the date of enactment of Public Law 99-662 in order to protect the interests of port sponsors who have entered into local cost sharing agreements with the Corps of Engineers in the intervening time period.

Section 202

Section 1125 of Public Law 99-662 provided that the Corps of Engineers and the Ft. Berthold Indian Reservation would conduct a land transfer which would cede to the Indians land which they hold sacred in return for providing the Corps with acreage near Lake Sakakawea for project management purposes. Since that time, the Corps has failed to implement this transfer and exchange in the expeditious manner intended. This provision transfers the acreage in question directly to the tribe, provided that the Corps retain a flowage and sloughing easement for the purpose of flood control and related Garrison Dam project purposes.

Section 203

This is a technical correction to section 916 of Public Law 99-662. That section allows a local project sponsor of a federally-authorized Corps project from a project repayment district which may contract with the Corps to repay its cost sharing obligations from a property transfer fee collected by that district. This has proven to be unnecessarily restrictive. Section 203 therefore broadens the existing provision to allow a project repayment district to use any cost recovery approach consistent with state law, including, but not limited to, property transfer fees.

Section 204

This section amends section 402 of Public Law 99-662, which currently requires that non-Federal sponsors of Corps of Engineers flood control projects agree to comply with and participate in the Federal flood insurance program prior to project construction. The intent of this section was to provide additional assurance of compliance with this important program. Section 204 expands this requirement to include non-federal sponsors of Corps shoreline protection projects as well as flood control projects.

Section 205

Section 205 declares that, whenever feasible, the Secretary of the Army should seek to promote cost savings, increased efficiency, and improved environmental results through innovative techniques and technology in all phases of water resources development projects and programs under this jurisdiction.

Studies conducted by the National Academy of Sciences, the Office of Technology Assessment, the Business Roundtable, and others have shown that in the U.S., far too little effort is directed towards improving the technologies of public works design, construction, repair, rehabilitation, and operation and maintenance. The relatively slow pace of innovation resulting from this neglect has caused inefficiencies and excessive expense in the construction and upkeep of the nation's public works, including water resources facilities.

Since approximately $100 billion per year is spent nationally on public works (a significant portion of which is water resources related), even small inefficiencies become significant. Given the national character and magnitude of this problem, these studies have made it clear that the federal government can and should play an important role in addressing this situation.

Because the Corps of Engineers is the federal government's largest civil engineering force, and is involved in hundreds of water resources-related projects and programs, its considerable resources and responsibilities could be used more actively as a laboratory or proving ground for promising new technologies in water resources.

In addition, water resources development projects frequently cause undesirable environmental changes. In the past, new technologies, such as multilevel outlets at dams, non-structural flood control techniques, and improved erosion control measures have helped lessen these impacts. A more aggressive approach to demonstrating certain types of new technologies could help lessen environmental damages done by water resources projects.

Presently, the Secretary, along with the Corps of Engineers, has numerous administrative authorities and procedures which can be, and to an extent are, used to promote innovation in water resources-related technology. These include various procurement and contracting procedures including design competitions, broad latitude with respect to project design criteria, formal and informal technical exchange arrangements with other agencies and persons, and internal information exchange between the Corps laboratories and district and division offices.

Although the Secretary does use his existing authorities in a good faith effort to promote innovation, every indication is that by making innovation a higher priority and by making a more concerted effort, the Secretary can make even more lasting contributions to improved water resources technologies.

So, although this provision provides the Secretary with no new authorities, it encourages the Secretary and the Corps to redouble their efforts and make the maximum use of existing authorities, programs, and projects in order to advance the state of the art with respect to water resources and related technology and techniques.

It can be expected that the initial trial of a new technology or technique will sometimes cost more than conventional technology—cost savings only being realized after experience is gained with the new technology. To the extent that cost increases on an initial trial are within the scope of the law, and to the extent the Secretary chooses to absorb the increased cost or can work out these increased costs with local project sponsors, such costs should be considered to be part of the innovation process.

Although this provision encourages the Secretary and the Corps to become more aggressive innovators, it must be emphasized that public safety and project reliability should continue to be given the highest priority.

Subsection (a) of this section instructs the Secretary of the Army to, whenever feasible, promote long and short term cost savings, improved safety, reliability, efficiency, and improved environmental results through the use of innovative technology in all phases of water resources development projects and programs under his jurisdiction.

To that end, the Secretary is encouraged to use existing authorities, including contract and procurement procedures, formulation and review of design criteria, information exchange agreements, and participation with non-Federal project sponsors.

Subsection (b) requires that within 2 years of enactment, the Secretary is to report on the development and implementation of innovative technologies in water resources programs and projects under his jurisdiction.

Subsection (c) defines the term "innovative technology" as "designs, materials, or methods which the Secretary determines are previously undemonstrated or are too new to be considered standard practice."

Section 206

This provision requires the Corps, upon request, to provide a cash-contributing non-federal sponsor of a water resources development project under construction with periodic statements outlining expenditures which have been made and the progress which is anticipated on that project.

Section 207

This section authorizes the Secretary of the Army to establish a 2-year demonstration program to provide supporting services on a non-exclusive basis to American firms that are competing for the planning, design, or construction of projects in foreign countries.

Firms receiving assistance from the Corps under this authority must agree to pay all costs up front for that assistance. In addition, both the Secretary and the private firm must certify that the assistance is not otherwise reasonably and expeditiously available through the private sector.

Experience in the world market has shown that U.S. firms often operate at a disadvantage because many foreign governments provide technical support (oftentimes at no cost) to firms in their country which are pursuing international work. Although modest, this

provision would provide some measure of assistance to U.S. domestic firms.

On the expiration of this authority, the Secretary of the Army is directed to submit a report to Congress on the results of this program.

Section 208

The Brush Creek, Missouri flood control project was authorized by Public Law 99-662. Local project sponsors would like to have additional elements added to the project and have expressed a willingness to fully reimburse the Corps of Engineers for all design and construction work required to perform this work for them.

Therefore, this section would allow the Corps of Engineers to perform this work on a fully cost reimbursable basis. By authorizing the Corps to perform this work simultaneously with the construction of the federal project, local sponsors are likely to realize significant savings.

This section also specifies that work performed under this authority will not be considered to be part of the Federal channel and that the Federal Government will assume no liability or maintenance responsibility for this work.

Section 209

This section authorizes the Corps to construct a replacement laboratory for the Corps' Ohio River Division. The recommended site consists of three acres in the Schumacher Commerce Park, in Butler County, Ohio. This new laboratory, which is estimated to cost approximately $2,000,000, will be constructed using available Corps funds.

Section 210

This section authorizes the Secretary to pay tuition costs of English-taught education at nearby private schools in Puerto Rico for any federal employee residing in Puerto Rico who is employed on the construction of the Portuguese and Bucana Rivers project.

Army Corps of Engineers employees from the mainland of the United States are temporarily employed in the construction of this project. As a condition of their employment, they must reside in the immediate vicinity of Ponce, close to the project. Their children are unable to obtain a primary or secondary eduction taught in English at public facilities in that area. Federally provided educational facilities are also too far away for these children to attend. This section remedies this inequity for these children by providing Corps payment for education at private facilities.

Section 211

This section corrects a technical deficiency in the U.S. Code which was created by enactmennt of Public Law 99-662, the Water Resources Development Act of 1986. Section 922 of that act amended section 3036(d) of title 10, U.S. Code, to authorize the Corps to provide services, including construction work, to States and political subdivision thereof in certain circumstances. Part of section 922

was inadvertently dropped, rendering it meaningless. This provision corrects that error.

Section 212

This section is necessary to make the non-Federal cost sharing requirements associated with the construction, operation and maintenance of the King Harbor-Redondo Beach, California, project consistent with the general cost sharing criteria of Public Law 99–662. During deliberations on that legislation, preliminary studies by the Corps of Engineers indicated that the project would produce benefits primarily to recreational boating; therefore the on-Federal share of 50 percent was mandated. Subsequent studies demonstrate that the project will have significant hurricane and storm damage reduction benefits, in addition to recreation benefits. This section would reflect those findings by making the cost sharing requirements for this project comply with the formulas established by Public Law 99–662 for other project purposes.

Section 213

This section will help assure that opportunities for beach replenishment work will not be lost due to the inability of a state to come up with its share of funds in an expedited manner. Section 145 of Public Law 94–587 authorized the Secretary to participate in beach replenishment activities located near Federal navigational dredging projects, provided that the State paid any additional costs associated with that work. This requirement was modified by section 933 of Public 99–662 to specify that the Federal Government was to share 50 percent of the additional costs of using beach-quality dredged material for beach nourishment.

In a number of instances, however, opportunities to take advantage of this authority have been lost due to the inability of a state to come up with funds on an expedited basis. In such instances, the Corps' schedule for work was such that the state simply did not have time to secure the necessary funding, such as obtaining appropriations from the state legislature. This section encourages the Secretary to make every effort to work with the states so that they can raise the necessary funds in time to take advantage of this basic authority.

This section should promote a Corps-State partnership in replenishing beaches, and is not intended in any way to affect the non-Federal share of costs for such work as established in law or the Secretary's decisions regarding the advisability of such work.

Section 214

Section 211 of Public Law 99–662 required the Administrator of the Environmental Protection Agency to designate, within three years, one or more alternative sites to the Mud Dump dredge disposal site. This section requires the Administrator to submit this plan, together with funding requirements and other information, to the pertinent committees of the Senate and House not later than 120 days after date of enactment.

Section 215

This section modifies the already-authorized Libby Dam-Lake Koocanusa, Montana, project to include fish and wildlife enhancement and recreation as project purposes. If operational changes necessary for these new purposes would otherwise result in a reduction of hydroelectirc power generation, the Secretary is directed to reallocate joint use costs.

Section 216

This section amends existing Corps of Engineers operation and maintenance authority to include bank stabilization measures along the Missouri River.

A recently-released GAO report found that the severe erosion occurring along the Missouri River today is of a completely different character than that which occurred in the river before the construction of the Missouri River mainstem dams forty years ago. The report also makes it clear that if the Corps were to build those reservoirs today they would have to consider the erosion impacts of the dams in project development, something they did not have to take into account in the 1940's.

This provision would make streambank erosion measures a Corps maintenance responsibility on the reach of the Missouri River between Fort Peck Dam in Montana, and a point fifty-eight miles downstream of Gavins Point Dam in South Dakota. The costs of such maintenance work would be charged to all the project purposes of the Missouri River system, and would thus be borne proportionately by the direct beneficiaries of that system.

Section 217

This section increases the cost ceiling for the Redwood River, Marshall, Minnesota project, authorized in Public Law 99-662. Because inaccurate cost estimates were provided to Congress during the drafting of Public Law 99-662, the cost of this project listed in the bill were exceedingly low. Therefore, to correct this error, this section raises the estimated total cost of this project from $4,370,000 to $6,900,000.

Section 218

This section provides that should any section or subsection of this act be held invalid in the courts, that determination does not affect the validity or legality of any other provision in this Act.

TITLE III: PROGRAMS AND STUDIES

Title III contains study and program provisons related to the projects and authorities of the Corps of Engineers.

Section 301

Section 91 of the Water Resources Development Act of 1974 authorized the Corps of Engineers to remove material hazardous to navigation from around New York Harbor. The program was capped at $30.5 million. That program ceiling will be reached in

the current fiscal year while the work of the program remains incomplete because of rising costs. In order to allow this work to continue, this section substitutes an annual program ceiling of $6 million for the program ceiling now in effect.

Section 302

The states of Minnesota and North Dakota are presently utilizing the technical services of the Corps of Engineers under existing technical assistance programs in the Red River Basin to examine a range of water related problems in the basin. This section establishes within the Corps of Engineers a technical resource service specifically for the Red River Basin, at an annual authorization of $500,000.

Section 303

This section directs the Corps, in conjunction with the Environmental Protection Agency, to perform a systematic study of the water quality-related aspects of their hydroelectric facilities and report back to Congress within 2 years. The report is also to include recommendations for what changes might be necessary to improve water quality downstream of Corps hydroelectric facilities.

Subsection (b) of this section states that nothing in this section is intended to convey to any agency of the Federal Government any new authority with respect to the allocation or release of water from Federal reservoirs, nor is anything in this section intended to in any way affect or influence any present or future court proceedings.

Section 304

This section authorizes the General Accounting Office to conduct a management and administration review of the civil works program of the Army Corps of Engineers; such study and recommendations are to be transmitted to the Congress within one year of enactment.

Section 305

This provision clarifies the Secretary's authority to conduct research and restoration activities, including construction work, on wetlands. Although the Corps of Engineers' Waterways Experiment Station in Vicksburg, Mississippi, currently has a wetlands research program, the Corps does not have sufficient authority to undertake construction, particularly in a cooperative effort with non-Federal interests, as part of this research program. For example, the State of Illinois has expressed interest and committed significant funding to wetlands restoration adjacent to the Des Plaines River near Wadsworth, Illinois. State and local governments, and to a limited extent, Federal agencies, have worked together on this effort, but full realization of the effort's potential as a research endeavor warrants participation by the Corps, drawing from its unique background in both construction and environmental research. This section will allow the Corps to participate in needed

research activity on the Des Plaines River and at other potential sites.

This section authorizes such activities for five years at a total federal cost of $5 million. For any work undertaken pursuant to this section, non-federal interests will be required to share the costs in accordance with section 906(e) of Public Law 99-662.

ADDENDUM

The Committee notes that Congress appropriated funds consecutively over a five year period from 1982 to 1986 for the Corps of Engineers to investigate the feasibility of deepening and widening the Miami Port main channel. Although the feasibility report has not been finalized, the Committee recognizes the importance this project may have for the efficiency and safety of vessel movement within the Miami Harbor. The Committee urges the Corps of Engineers to expedite the completion of planning for this project.

HEARINGS

The Subcommittee on Water Resources, Transportation and Infrastructure held two days of hearings on S. 2100, S. 2101, S. 2158, and other related water resources issues. These hearings were held in Washington, DC, on March 16 and 17, 1988.

ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of legislation be noted in the report on that legislation.

One rollcall vote was taken on this legislation. S. 2100 as amended was ordered reported by a vote of 16-0.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. A copy of that statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 7, 1988.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, United States Senate, Washington, DC 20510

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2100, the Water Resources Development Act of 1988.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT F. HALE,
(For James L. Blum, Acting Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2100.

2. Bill title: Water Resources Development Act of 1988.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, March 29, 1988.

4. Bill purpose: Title I of S. 2100 authorizes the Secretary of the Army, acting through the Corps of Engineers (the Corps), to construct or modify 17 water resources projects—one inland navigation, nine flood control, one beach erosion, one estuarine, and five port development projects. The Corps estimates that these 17 projects have a total federal cost of approximately $1.3 billion in 1987 dollars.

Titles II and III contain miscellaneous provisions that establish and authorize funding for several studies, demonstration projects, land acquisition requirements and technical assistance. These titles also provide certain management policy guidance for the Corps, make changes in cost-sharing formulas for water resource projects, and make a number of other changes to the Water Resources Development Act of 1986. Finally, the bill would require an independent review by the General Accounting Office (GAO) of the Corps' civil works program.

5. Estimated cost to the Federal Government: The estimated budget impact of the projects and activities authorized or mandated in this bill, assuming the necessary appropriations, is shown in the following table for fiscal years 1989 through 1993:

[By fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
Estimated authorization level	21	37	56	73	81
Estimated outlays	14	29	48	64	75

In addition, it is estimated that outlays of approximatly $1.5 billion would be incurred by the federal government over the fiscal years 1994 through 2004 period as a result of enactment of this bill. Upon completion of all the projects, total federal operation and maintenance expenditures would total about $4 million annually (in 1987 dollars).

The cost of this bill fall primarily within budget function 300.

Basis of estimate: Title I authorizes funds for construction, modification and maintenance of water resources projects. In most cases, the bill specifies estimated total costs for each project in October 1987 dollars. Where costs are not specified in that way, CBO has obtained estimates from the Corps to reflect prices in October 1987 dollars. For the purpose of projecting the budget impact of this bill, first costs were adjusted to reflect the impact of inflation during the time lags between authorization, appropriation and the beginning of construction.

In preparing estimates of the budget impact of authorizing legislation, it is normally assumed that the bill's authorization level will be funded as soon as possible following enactment. Such an assumption would not be realistic for this legislation because of a

large number of projects. Thus, although this estimate assumes that the full amount authorized will be funded, a methodology was designed to approximate the normal lag in funding water projects. Recognizing the difficulty of estimating the timing of appropriation action for a particular project, the methodology is based on historical patterns and requires no explicit determination of when specific projects will be funded. The methodology uses an average time lag, based on ten years of historical data, for the length of time between the year of authorization and the year of first appropriation for advanced engineering and design and construction of similar projects. Outlays associated with project authorizations were estimated based on information from the Corps. They were then lagged in accordance with the calculated average time lag mentioned above, and were finally adjusted to reflect inflation. Authorization levels were estimated based on historical outlay rates for affected programs.

For the purposes of this estimate, we assumed that all projects authorized will be constructed. Although projects in this bill would be subject to sunset provisions, we assumed that all projects and studies authorized would receive at least some funding within the stipulated periods. We also assumed that the bill will be enacted by October 1988 and that the necessary appropriations will be provided each year.

Costs for the demonstration projects, studies, land acquisition, and technical assistance authorized in Titles II and III were estimated based on information from the Corps and GAO. They average about $12 million per year.

6. Estimated cost to State and local governments: The estimated total state and local share of the projects authorized in this bill is shown in the following table.

[By fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
Estimated outlays	3	6	12	18	23

In addition, it is estimated that outlays of approximately $350 million would be incurred by nonfederal units of government over the fiscal years 1994 through 2004. Subsequently, annual operation and maintenance expenditures would be about $7 million.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Theresa Gullo.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

EVALUATION OF REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of this legislation. No provisions explicitly require that new regulations be promulgated and it is unlikely that any new regulations would otherwise be required by this legislation.

CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary to dispense with the requirement of section 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

○

Calendar No. 631

100TH CONGRESS
2d Session

SENATE

REPORT
100-322

PUBLIC BUILDINGS AMENDMENTS OF 1988

APRIL 22 (legislative day, APRIL 12), 1988.—Ordered to be printed

Mr. BURDICK, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2186]

The Committee on Environment and Public Works, to which was referred the bill (S. 2186) to improve the efficiency and effectiveness of the management of public buildings, reports favorably thereon with amendments and recommends that the bill do pass.

GENERAL STATEMENT

In March of 1987 the Administration submitted to Congress a series of suggested amendments to the various statutes regarding the public buildings activities of the General Services Administration (GSA). These laws have not been substantially amended since 1972. The Administration's proposal was considered and significantly amended in the House of Representatives. The House passed a public buildings reform bill last December, H.R. 2790, which was subsequently referred to this Committee. On March 17 of this year, Senator Moynihan introduced S. 2186. Only two minor, perfecting amendments were made to this measure during committee consideration. The reforms which would be accomplished by this legislation include:

(1) Raising from $500,000 to $2 million the threshold level at which GSA must submit to Congress a prospectus for a major alteration or acquisition of space;

(2) Granting GSA authority to relinquish legislative jurisdiction over areas under its control, so that where it is appropriate local law enforcement authorities may protect Federal properties;

(3) Expanding the statutory authority for the General Services Administration's security and law enforcement functions

S323-2.

to all buildings and areas that are under the charge and control of the agency; and

(4) Eliminating the statutory cap on alterations to leased space, which currently limits the amount which may be paid for such alterations to no more than 25 percent of the cost of the initial year of the lease.

These amendments are rather modest in scope, but will nevertheless effect a significant improvement in the management of our Nation's public buildings program.

The bill introduced by Senator Moynihan and now reported by the Committee on Environment and Public Works is similar to that passed by the House, with the elimination of two major provisions:

(1) The authorization of time-financing for the acquisition of public buildings. Although this Committee has in the past approved projects to be financed in this manner, the Administration is opposed to this provision and has indicated that its inclusion will prompt a veto.

(2) The requirement that Federal buildings be constructed in compliance, to the maximum extent feasible, with nationally recognized building codes and local zoning laws. The General Services Administration claims that this provision will unduly delay projects and cause lengthy discussions between Federal and local authorities over even minor alterations to Federal buildings.

Both of these provisions were added to the Administration bill by the House Committee on Public Works and Transportation. These sections of the House bill are controversial and likely to impede enactment of reforms.

Section-by-Section Analysis

Section 1 designates the measure the "Public Buildings Amendment of 1988".

Section 2 raises the threshold level at which Congressional prospectus approval is required for alterations and acquisitions of space. Current statutes require the agency to submit to the Public Works Committees of the House and Senate a prospectus for any alteration or acquisition of space with an estimated cost of over $500,000. This provision will raise the minimum cost over which prospectus approval is required $2,000,000.

This threshold was last raised in 1972 and does not reflect the sharp inflation during the intervening years. Approval is required for repair and alteration projects of a much narrower scope than when the Act was last amended. The increase is proposed in order to focus attention on the more significant projects.

In 1972 for $500,000 in leasing expenditures Government could obtain a lease of approximately 75,000 square feet of office space at GSA's average cost of $6.50 per square foot. As a result of steadily rising rental rates for commercial space in most parts of the country, for annual payments of $500,000 the Government can now obtain only 30,000 square feet or less of leased space in many major cities.

Delays in securing prospectus approval create hardships for the agency tenants and private sector landlords. This is particularly

important now, because many long-term leases that GSA obtained in the 1970's at favorable rates have begun to expire and must be renegotiated.

Section 3 establishes certain limitations on leasing authority. This provision was not contained in the original Administration proposal. However, similar language was included in three comprehensive public buildings reform measures passed by the Senate since 1980 that were not enacted into law. This section forbids the Administrator of GSA to lease space for certain types of Government activities unless he submits to the House and Senate Public Works Committees a written justification for doing so. The purpose of this section is to discourage the agency from using leased space for major computer operations, national security activities, or judicial facilities, or from entering into leases for buildings which will require major alterations.

The Administrative Office of the United States Courts expressed concern regarding this provision due to the judiciary's critical shortage of space. The Committee wishes to make clear that this restriction does not apply to temporary courtroom facilities, where the lease is undertaken to await the availability of appropriate space in a public building. However, permanent courtrooms should be located in publicly owned buildings. Such an arrangement is more economical; we can safely anticipate a continued need for these facilities. also, a building built to Federal standards is far more likely than a commercial facility to be of the monumental character which appropriately reflects the solemnity of judicial proceedings.

Activities related to national security are more appropriately housed in Government-owned space. The fact that the Government has no influence over transfers of ownership of rental facilities poses a security risk. There have been instances where buildings housing Federal agencies have been sold to foreign interests. In addition, national security functions have sometimes been provided rented space in private buildings constructed without even rudimentary security measures. Classified files should not be located where only a thin wall separates them from space that may be rented by anyone on the open market. Security features in these buildings are usually added later, at Government expense. One unfortunate result is that the Government, conscious of its capital investment in such buildings and the disruption to activities attendant upon a relocation, is reluctant to vacate. This can lead to lease renewals with terms more favorable to the landlords than to the Government tenants.

The same situation seems to occur in the case of Government offices where the amount of spaces leased is large, where computers or other special equipment have been placed in the building, or where extensive alterations have been made to the facility.

The Committee has repeatedly expressed concern regarding large expenditures for alterations for buildings which the Government does not own. Such alterations or improvements must usually be left in place when the Government vacates the building. Moreover, the alteration contracts are often sole-source agreements with the lessor. Some leases require that alterations be made to restore the space to its original condition when the Government moves out.

The Committee is particularly concerned about instances of alterations being undertaken shortly before a lease expires.

The Senate bill does not include section 3(a) of H.R. 2790, which requires prospectus approval for alterations to leased space when the cost of the alterations exceeds $1.5 million. The General Services Administration requested that this language be removed, stating that it will cause unreasonable delays in meeting agencies' needs. Prospectuses are submitted to Congress when the cost of a lease will exceed the threshold level. The agency claims that this procedure can take from twelve to eighteen months. Adoption of the House language would require the agency to repeat the prospectus submission process when significant alterations are required for newly leased space. In addition, the House language may hinder GSA's efforts to respond to unforeseen agency requirements even in existing leased space.

Section 4 allows the threshold level for prospectus submission to be adjusted annualy to reflect changes in costs as determined by the composite index of construction costs of the Department of Commerce. The Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation are to be notified of any such change. Various business groups expressed concern that the Department of Commerce index bears little relation to changes in rental costs and suggested the use of indicators compiled by private firms. It was decided that the use of Federal Government statistics for this purpose is more appropriate. However, the Committee will be monitoring this situation to assure that adjustments to the threshold level for lease prospectus submissions reflect accurately changes in the market for rental office space.

Section 5 gives the GSA Administrator the authority to relinquish to a State or territory legislative jurisdiction over areas under his control and establishes special rules for buildings to be leased by the Federal Government.

A new section is added to the Public Building Act of 1959, as amended, to allow the Administrator of General Services the flexibility to relinquish all or part of the "legislative" jurisdiction of the United States over areas under the control of the Administrator. When exclusive jurisdiction is relinquished by GSA and accepted by the states, local law enforcement agencies would be permitted to enter and make arrests on the specified Federal properties. Enactment of section 5 would allow GSA to reduce the full time Federal law enforcement presence in areas where local police authorities can adequately respond to requests for assistance.

Section 5 also adds a section to the same statute tc establish special rules for leased buildings. This provision also was not included in the Administration proposal but is similar to language the Senate has repeatedly approved. This section forbids the Administrator from making any commitment which will result in the construction of a building to be leased to the United States before establishing specifications for such buildings. The competitive procedures required by the Competition in Contracting Act of 1984 are to be employed before the agency enters into such lease agreements.

This provision was included in the House bill; the language has been modified at the request of the General Services Administration. The House bill requires that "detailed specification requirements" be established "by regulation". According to the agency, solicitations for leased space yield responses from owners of existing buildings and developers proposing to construct new facilities. The provision contained in the House bill might create unequal competition, since a developer of a new building can more easily tailor his proposal to meet detailed specifications. Also, the House bill's mandate that the specification requirements be established by regulation can be expected to slow drastically the leasing process, since proposed agency regulations must be reviewed and approved by the Office of Management and Budget.

The language of S. 2186 differs from the House bill in regard to the competitive procedures to be employed by the Administrator when he procures the construction of building to be leased to the United States. The House bill states that the Administrator may procure such construction "only by publicly soliciting competitive bids". The Senate bill requires that the agency follow the competitive procedures required by the Competition in Contracting Act of 1984.

The General Services Administration expressed concern that the House language might be interpreted as requiring only sealed bids and forbidding competitive negotiations. The Senate amended the House language at the requst of the agency to make clear that either the sealed bidding or competitive negotiations procedure is permissible. GSA claims that the latter is usually the more appropriate. This method allows preliminary discussions with possible lessors concerning price and other considerations such as parking, daycare facilities, building quality, and proximity to restaurants and public transportation. These factors often greatly affect an agency's ability to serve the public. GSA finds sealed bidding to be more appropriate only when the Federal Government has designated a site for construction of a building it wishes to lease.

This section also requires the Administrator to inspect buildings constructed for lease to or predominant use by the Federal Government during their construction to assure that the specifications are met. The section directs the Administrator to make a post-construction evaluation of compliance with the specifications. All contracts entered into for such buildings must contain provisions allowing for payment of reduced rents during any period when the building is not in compliance with the specifications.

Section 6 repeals the statutory language which limits expenditures for alterations, improvements, and repairs of leased space to 25 percent of the amount of rent to be paid during the initial year of the lease. Other, more effective controls have been instituted to assure that lease alterations are performed only when they are in the best interest of the Government. In accordance with the Public Buildings Amendments of 1972, revenue collected from tenant agencies is matched against the lease payments to the private landlord and other necessary expenditures attributable to that property. The process of securing a waiver to the 25 percent maximum limitation has become an agency paperwork exercise.

Section 7 amends the statutory authority for GSA's security and law enforcement functions. The present statute authorizes the agency to exercise these functions only in areas where the relevant State government or other competent authority has ceded exclusive or concurrent criminal jurisdiction. The amendment expands this authority to all buildings and areas that are under the charge and control of GSA.

Congress has recognized the need for such authority by including a similar provision in GSA's appropriation act or continuing resolution for the past several years. However, this authority would be more properly provided through amendment to the authorizing statute. Section 7 also changes obsolete references to the "Federal Works Agency" and the "Federal Works Administrator" to the "General Services Administration" and "Administrator of General Services", respectively.

Section 8 makes a technical amendment to a building naming measure. P.L. 98–492, an Act to designate the United States Post Office and Courthouse in Pendleton, Oregon, as the "John F. Kilkenny United States Post Office and Courthouse", is amended by striking out "Dorian" and inserting in lieu thereof "Dorion".

Hearing

On March 3, 1988, the Committee held a hearing on this measure. Testimony was received from the Honorable Terence C. Golden, Administator, General Services Administration; Mr. Douglas F. Collins, President, Institute of Real Estate management, National Association of Realtors; and Mr. Ralph P. Silverman, Vice President and Chief Counsel, Charles E. Smith, Inc.

Cost of Legislation

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 20, 1988

Hon. Quentin N. Burdick,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2186, the Public Buildings Amendments of 1988, as ordered reported by the Senate Committee on Environment and Public Works, March 29, 1988.

The bill would make several technical changes affecting the public buildings activities of the General Services Administration. CBO estimates that enactment of S. 2186 would result in no significant costs or savings to the federal government and in no costs to state or local governments.

Sincerely,

James L. Blum,
Acting Director.

Rollcall Votes

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works

require that any rollcall votes are to be announced in reports accompanying legislation. Only one rollcall vote was taken during consideration of this legislation. The amendment was adopted and the measure ordered reported by a unanimous rollcall vote.

Evaluation of Regulatory Impact

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires the Committee to evaluate the regulatory impact of the reported bill. This bill is expected to have no regulatory impact.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Public Buildings Act of 1959

* * * * * * *

Sec. 4. (a) * * *.

(b) No approval under section 7 shall be required for any alteration and acquisition authorized by this section the estimated maximum cost of which does not exceed [$500,000.] *$2,000,000.*

* * * * * * *

Sec. 7. (a) In order to insure the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for such buildings, except as provided in section 4, no appropriation shall be made to construct, alter, purchase, or to acquire any building to be used as a public building which involves a total expenditure in excess of [$500,000] *$2,000,000* if such construction, alteration, purchase, or acquisition has not been approved by resolution adopted by the Committee on Public Works of the Senate and House of Representatives, respectively. No appropriation shall be made to lease any space at an average annual rental in excess of [$500,000] *$2,000,000* for use for public purposes if such lease has not been approved by resolutions adopted by the Committee on Public Works of the Senate and House of Representatives, respectively. For the purpose of securing consideration for such approval, the Administrator shall transmit to Congress a prospectus of the proposed facility, including (but not limited to)—

(1) a brief description of the building to be constructed, altered, purchased, acquired, or the space to be leased under this Act;

(2) the location of the building or space to be leased and an estimate of the maximum cost to the United States of the facility to be contructed, altered, purchased, acquired, or the space to be leased;

(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing Govern-

ment-owned or occupied buildings, especially such of those buildings as enhance the architectural, historical, social, cultural, and economic environment of the locality;

(4) with respect to any project for the construction, alteration, purchase, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action;

(5) a statement by the Administrator of the economic and other justifications for not acquiring or purchasing a building or buildings identified to the Administrator pursuant to section 12(c) of this Act as suitable for the public building needs of the Federal Government; and

(6) a statement of rents and other housing costs currently being paid by the Government for Federal agencies to be housed in the building to be constructed, altered, purchased, acquired, or the space to be leased.

* * * * * * *

(e) LIMITATION ON LEASING CERTAIN SPACE.—Notwithstanding any other provision of this Act, with respect to any lease subject to section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606), the Administrator may not lease any space to accommodate—

(1) major computer operations;

(2) secure or sensitive activities related to the national defense or security, except in any case in which it would be inappropriate to locate such activities in a public building or other facility identified with the United States Government;

(3) offices which would require major alterations in the structure or mechanical system of the building to be leased; or

(4) a permanent courtroom, judicial chamber, or administrative office for any United States court;

except that the Administrator may lease such space if the Administrator first determines, for reasons set forth in writing, that leasing such space is necessary to meet requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(f) DOLLAR AMOUNT ADJUSTMENT.—Any dollar amount referred to in this section and section 4(b) of this Act may be adjusted by the Administrator annually to reflect a percentage increase or decrease in construction costs during the preceding calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any such adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

* * * * * * *

SEC. 19. STATE ADMINISTRATION.

Notwithstanding any other provision of law, the Administrator may, whenever the Administrator considers it desirable, relinquish to a State, or to a commonwealth, territory, or possession of the

United States, all or part of the legislative jurisdiction of the United States over land or interests under the control of the Administrator in such State, commonwealth, territory or possession. Relinquishment of legislative jurisdiction under this section may be accomplish by filing with the Governor (or if none exists, with the chief executive officer) of such State, commonwealth, territory, or possession a notice of relinquishment to take effect upon acceptance thereof, or in such other manner as may be prescribed by the laws of the State, commonwealth, territory, or possession where such lands are situated. The authority granted by this section is in addition to and not instead of that granted by any other provision of law. Nothing herein shall be construed to authorize the Administrator to dispose of any land or interest in property to a State, commonwealth, territory, or possession.".

SEC. 20. SPECIAL RULES FOR LEASED BUILDINGS.

(a) SPECIFICATIONS.—Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, the Administrator shall not make any agreement or undertake any commitment which will result in the construction of any building which is to be constructed for lease to, and for predominant use by, the United States until the Administrator has established specifications for such building.

(b) COMPETITIVE PROCEDURES.—The Administrator may acquire a leasehold interest in any building which is being constructed for lease to, and for predominant use by, the United States only by the use of competitive procedures required by section 2711 of the Competition in Contracting Act of 1984, amending section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(c) INSPECTIONS.—The Administrator shall inspect every building to be constructed for lease to, and for predominant use by, the United States during the construction of such building in order to determine that the specifications established for such building are complied with.

(d) ENFORCEMENT.—

(1) POST-CONTRUCTION EVALUATION.—Upon completion of a building constructed for lease to, and for predominant use by, the United States, the Administrator shall evaluate such building for the purpose of determining the extent, if any, of failure to comply with the specifications referred to in this section.

(2) CONTRACT CLAUSE.—The Administrator shall ensure that any contract entered into for a building described in paragraph (1) shall contain provisions permitting a reduction of rent during any period when such building is not in compliance with such specifications.

* * * * * * *

SECTION 322 OF THE ACT OF JUNE 30, 1932

Making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes

* * * * * * *

[SEC. 322. Hereafter no appropriations shall be obligated or expended for the rent of any building or part of a building to be occupied for Government purposes at a rental in excess of the per annum rate of 15 per centum of the fair market value of the rented premises at date of the lease under which the premises are to be occupied by the Government nor for alterations, improvements, and repairs of the rented premises in excess of 25 per centum of the amount of the rent for the first year of the rental term, or for the rental term if less than one year: *Provided,* That he provisions of this section shall not apply to leases heretofore made, except when renewals thereof are made hereafter, not to leases of premises in foreign countries for the foreign services of the United States: *Provided further,* That the provisions of this section as applicable to rentals, shall apply only where the rental to be paid shall exceed $2,000 per annum.]

ACT OF JUNE 1, 1948

To authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him may appoint uniformed guards of said Agency as special policemen without additional compensation for duty in connection with the policing of public buildings and other areas under the jurisdiction of the Federal Works Agency. Such special policemen shall have the same powers as sheriffs and constables upon such Federal property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations made and promulgated by the Administrator or such duly authorized officials of the Federal Works Agency for the property under their jurisdiction: *Provided,* That the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process and shall be restricted to Federal property over which the United States has acquired exclusive or concurrent criminal jurisdiction.]

SECTION 1. SPECIAL POLICE.

(a) APPOINTMENT.—The Administrator of General Services, or officials of the General Services Administration duly authorized by the Administrator, may appoint uniformed guards of such Administration as special policemen without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under the charge and control of the Administrator.

(b) POWERS.—Special policemen appointed under this section shall have the same powers as sheriffs and constables upon such property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations promulgated by the Administrator or such duly authorized officials of the Administration for the property under this jurisdiction; except that

the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.

SEC. 2. The [Federal Works Administrator] *Administrator of General Services* or officials of the [Federal Works Agency] *General Services Administration* duly authorized by him are hereby authorized to make all needful rules and regulations for the government of the [Federal] property under their charge and control, and to annex to such rules and regulations such reasonable penalties, within the limits prescribed in section 4 of this Act, as will insure their enforcement: *Provided,* That such rules and regulations shall be posted and kept posted in a conspicuous place on such [Federal] property.

SEC. 3. Upon the application of the head of any department or agency of the United States having property of the United States under its administration and control [and over which the United States has acquired exclusive or concurrent criminal jurisdiction], the [Federal Works Administrator] *Administrator of General Services* or officials of the [Federal Works Agency] *General Services Administration* duly authorized by him are authorized to detail any such special policemen for the protection of such property and if he deems it desirable, to extend to such property the applicability of any such regulations and to enforce the same as herein set forth; and the [Federal Works] *Administrator of General Services* or official of the [Federal Works Agency] *General Services Administration* duly authorized by him, whenever it is deemed economical and in the public interest, may utilize the facilities and services of existing Federal law-enforcement agencies, and, with the consent of any State or local agency, the facilities and services of such State or local law-enforcement agencies.

* * * * * * *

ACT OF OCTOBER 17, 1984

To designate the United States Post Office and Courthouse in Pendleton, Oregon, as the "John F. Kilkenny United States Post Office and Courthouse"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Courthouse located at 104 Southwest [Dorian] *Dorion* Avenue, Pendleton, Oregon, shall hereafter be known and designated as the "John F. Kilkenny United States Post Office and Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "John F. Kilkenny United States Post Office and Courthouse".

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